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SENSITIVE  
SIPDIS

DOC FOR 3317/ITA/OA/KBURRESS  
STATE PASS USTR FOR AGAMA  
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STATE PASS OPIC FOR ZHAN AND MSTUCKART  
STATE PASS TDA FOR LFITT, PMARIN  
DOJ FOR MKOUAME  
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SUBJECT: NIGERIA: LAWYERS, PRODUCERS HAVE NO CONFIDENCE IN  
NATIONAL COPYRIGHT COMMISSION

11. (SBU) Summary: In an October 13-14 seminar on intellectual property rights for professionals in the film industry, participants complained that the Nigerian Copyright Commission (NCC) turns a blind eye to massive, blatant piracy conducted in plain view of the agency. The NCC touted a new notification process intended to facilitate investigations if a complaint is filed. Filmmakers are planning to engage in copyright collective societies and professionalize informal production and contract relationships. End summary.

12. (U) On October 13-14, the World Intellectual Property Organization (WIPO), Nigerian Copyright Commission, and Communicating for Change, a non-governmental organization that raises awareness on development and environmental issues, hosted a national seminar on intellectual property rights for professionals in the film industry. This event included speakers from private industry, producers, filmmakers, lawyers, and representatives of the NCC. Sessions explained Nigerian copyright law, the role of the NCC in protecting intellectual property rights (IPR), and business models to enhance legal sales and distribution of media.

Producers and Lawyers: The NCC is Ineffective  
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13. (SBU) Discussions of the legal framework and enforcement mechanisms available to protect the film media revealed that the prevailing concern among producers and lawyers is the ineffectual role of the NCC. Vocal participants, such as well-known local lawyer Efere Ozako, who defends and promotes the copyrights of cable television channel Africa Magic, and Peace Fiberesima, filmmaker and Executive Officer for the Africa Film Academy, claimed that the NCC has never successfully resolved a case submitted for investigation for copyright violations. Ozako and other lawyers accused the NCC of falling short of its mandate to combat piracy, and said it must take steps to act where there is blatant violation of the law. Many stated that they were ashamed that the NCC turns a blind eye to even the most public operations of producers and distributors massively engaged in

the piracy of Nigerian and international films.

#### NCC: Producers Must Enforce Copyright

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¶4. (SBU) Representatives of the NCC clarified their view that producers are solely responsible for enforcing copyright. Adisa Adedeji, Special Assistant to the Director General of the NCC, stated that the NCC is not responsible for ferreting out pirates or for prosecuting them. The NCC can only conduct an investigation if a producer finds that his copyright is being violated and files the proper reports of copyright infringement, he claimed. Adedeji stated that the NCC can only protect work of which it is aware, and so has instituted a new notification process that allows producers to register their works with the agency. The new process will facilitate investigations if a complaint is later filed. NCC representatives encouraged producers to form their own associations and to watch out for copyright infringement of each other's work. The NCC is limited by a small budget, which NCC officials claimed was insufficient in 2008 even to pay salaries; stakeholders, therefore, should advocate on behalf of the commission for more resources, they urged. In addition, NCC officials claimed that pirates are dangerous people, which limits their ability to bust distribution rings. They also claimed that the NCC is not present at the border, making it impossible for the agency to fight international smuggling of copyrighted materials. On the margins of the meeting, contacts told Poloff that the NCC is likely profiting through bribes and payoffs from the piracy.

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#### Solutions Must Come From Within the Industry

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¶5. (U) As a developing industry, Nigerian filmmaking has been largely informal and there are rarely contracts or documents attesting to the true owners of a film or television production. Participants said that the question of informality makes it impossible to determine who should get credit for the work. When the creator of the work cannot be identified, it is impossible to enforce a copyright. In light of these challenges, filmmakers at the conference emphasized the need to professionalize their industry so as to benefit from the legal framework. Filmmakers and others in the film industry were urged to form copyright collective societies, which would allow members to work together to sell non-exclusive licenses, collect, negotiate, and distribute royalties, maintain better vigilance over their work, and seek full legal protection. Organizing would give them more power in pushing the NCC to address infringement cases and seek compensation for copyright violations.

¶6. (SBU) Comment: The film community's obvious lack of confidence in the NCC appears to have pushed it, with a nudge in the right directions from WIPO, toward mechanisms that will allow it better to protect its works. Without better protection, Nollywood, which produces and distributes more films than Hollywood or Bollywood, has no incentive to improve the quality of its films, a move widely regarded as necessary to make the industry commercially viable. End comment.

¶7. (U) This cable has been coordinated with Embassy Abuja.  
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